

## REMARKS

This Amendment is in response to the Office Action dated October 4, 2004. In the Office Action, the Examiner rejected claims 1-16, 19-22, and 26-41 under 35 U.S.C. § 102(e) as being anticipated by Milton et al., U.S. Publication No. 2003/0117433 (hereinafter Milton). Claims 17-18, 23-25, and 42-44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Milton*.

No claim amendments are made herein. Accordingly, claims 1-44 remain pending in the application. For the reasons set forth below, the Applicants respectfully request reconsideration and allowance of all pending claims.

### Traversal of the Rejection of Claims under 35 U.S.C. § 102 and § 103

A claim is anticipated only if each and every element of the claim is found in a single reference. M.P.E.P. § 2131 (citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628 (Fed. Cir. 1987)). "The identical invention must be shown in as complete detail as is contained in the claim." M.P.E.P. § 2131 (citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226 (Fed. Cir. 1989)).

Claims 1-16, 19-22, and 26-41 were rejected under 35 U.S.C. § 102(e) as being anticipated by *Milton*. In order to support a 35 U.S.C. § 102(e) rejection, the reference must be a proper 35 U.S.C. § 102(e) reference. The Applicant respectfully asserts that the *Milton* reference (U.S. Publication No. 2003/0117433) does not qualify as a §102(e) reference in view of the 37 C.F.R. §1.131 declaration and accompanying exhibits attached hereto. Accordingly, the current §102(e) rejection of pending claims 1-16, 19-22, and 26-41 cannot be supported for at least this reason, and thus must be withdrawn.

Claims 17-18, 23-25, and 42-44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Milton*. In order to support a 35 U.S.C. § 103(a) obviousness rejection, all references must be proper 35 U.S.C. § 102 references. Since the sole reference (*Milton*, U.S. Publication No. 2003/0117433) does not qualify as a proper

reference under 35 U.S.C. § 102, as asserted above, a rejection of claims 17-18, 23-25, and 42-44 as being unpatentable over *Milton* is improper, and thus must be withdrawn.

If the undersigned attorney has overlooked a teaching in any of the cited references that is relevant to the allowability of the claims, the Examiner is requested to specifically point out where such teaching may be found. Further, if there are any informalities or questions that can be addressed via telephone, the Examiner is encouraged to contact the undersigned attorney at (206) 292-8600.

*Charge Deposit Account*

Please charge our Deposit Account No. 02-2666 for any additional fee(s) that may be due in this matter, and please credit the same deposit account for any overpayment.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

Date: Feb 4, 2005

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